

EXHIBIT D

DALE L. ALLEN, JR., # 145279
 DIRK D. LARSEN, # 246028
 LOW, BALL & LYNCH
 505 Montgomery Street, 7th Floor
 San Francisco, California 94111-2584
 Telephone (415) 981-6630
 Facsimile (415) 982-1634

Attorneys for Defendant
 CITY OF CLEARLAKE
 (erroneously named herein as CLEARLAKE POLICE DEPARTMENT)

IN THE UNITED STATES DISTRICT COURT FOR
 THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

DAVID DAVIS and PAGE GEARHART-DAVIS
 PRO-SE,

Plaintiffs,

vs.

CLEARLAKE POLICE DEPARTMENT,

Defendants.

Case No. C 07-03365 EDL

DECLARATION OF OFFICER
 TODD MILLER IN SUPPORT OF
 DEFENDANT CITY OF
 CLEARLAKE'S MOTION FOR
 SUMMARY JUDGMENT, OR IN
 THE ALTERNATIVE, PARTIAL
 SUMMARY JUDGMENT

Date: August 12, 2008
 Time: 9:00 a.m.
 Courtroom: E, 15th Floor
 Judge: Hon. Elizabeth D.
 LaPorte

I, TODD MILLER, declare as follows:

1. I have personal knowledge of the following facts, and could and would testify competently thereto if called upon to do so.


2. I am currently employed by the City of Clearlake as an officer in the City of Clearlake Police Department. I have been a City of Clearlake Police Officer since July 16, 1997. Prior to that, I was employed as an officer in the King City Police Department since February 24, 1990.

3. On August 2, 2006, at approximately 1:30 a.m., I and Sgt. Timothy Celli of the Clearlake Police Department conducted an investigatory stop of David Davis, plaintiff in the above-captioned matter, as he was pumping gasoline into a gold-colored Mercury Cougar at a Flyers gas station at 15010

1 Lakeshore Drive in Clearlake, California. Mr. Davis was with his wife, plaintiff Page Davis. The reason
2 for the stop was that the vehicle in question did not display valid registration. I subsequently noticed
3 that there was a crack in the vehicle's windshield through the driver's field of view. When I inquired
4 regarding the vehicle's registration status, Mr. Davis became abusive, making derogatory comments
5 about my physique and calling me a "pig." In response to Mr. Davis's comments, I made a statement to
6 the effect of "we don't like your kind here." This statement referred only to individuals who exhibit
7 confrontational attitudes and disrespect toward law-enforcement officials. It did not in any way refer to
8 African-Americans, individuals of any particular race or ethnicity, of any mixture of race or ethnicity, or
9 to individuals in mixed-race relationships. The investigatory stop was occasioned solely by my
10 observation that the vehicle did not display valid registration, and the statement was occasioned solely
11 by Mr. Davis's abusive attitude.

12 I swear under penalty of perjury under the laws of the State of California that the foregoing is
13 true and correct to the best of my own personal knowledge.

14
15 Executed this 2TH day of July, 2008, in Clearlake, California.

16
17 
18 TODD MILLER